



2022 South Dakota Legislature

House Bill 1229

Introduced by: **Representative** Gosch

1 **An Act to authorize the formation of corporations and limited liability companies**
 2 **by physical therapists, occupational therapists, and speech-language**
 3 **pathologists.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That chapter 47-11G be amended with a NEW SECTION:**

6 Terms used in this chapter mean:

7 (1) "Articles of incorporation," the articles of organization of a limited liability company;

8 (2) "Corporation," both corporations under the South Dakota Business Corporations

9 Act and limited liability companies under the South Dakota Limited Liability
 10 Company Act;

11 (3) "Director" or "officer," any manager of a limited liability company or the members
 12 of a limited liability company that does not have managers;

13 (4) "Incorporation," the members of a limited liability company;

14 (5) "Shareholders," the members of a limited liability company; and

15 (6) "Shares," membership interests in a limited liability company.

16 **Section 2. That chapter 47-11G be amended with a NEW SECTION:**

17 One or more physical therapists licensed pursuant to chapter 36-10, occupational
 18 therapists licensed pursuant to chapter 36-31, and speech-language pathologists licensed
 19 pursuant to chapter 36-37 may form a corporation under the South Dakota Business
 20 Corporation Act. The articles of incorporation must contain provisions complying with the
 21 requirements of this chapter.

22 **Section 3. - That chapter 47-11G be amended with a NEW SECTION:**

23 A corporation formed pursuant to this chapter may:

1 (1) Be organized solely for the purpose of conducting the practice of physical therapy,
2 occupational therapy, and speech-language pathology, by persons qualified to
3 practice such in this state; and

4 (2) Exercise the powers and privileges conferred upon corporations by the laws of this
5 state, only in furtherance of and subject to its corporate purpose.

6 **Section 4. That chapter 47-11G be amended with a NEW SECTION:**

7 The name of a corporation formed pursuant to this chapter must contain the words,
8 professional company or professional corporation or abbreviations thereof, such as Prof.
9 Co., Prof. Corp., P.C., or PC.

10 The name of a limited liability company formed under this chapter must contain
11 the words, professional limited liability company, or the abbreviation, Prof. L.L.C., Prof.
12 LLC, P.L.L.C., or PLLC.

13 **Section 5. That chapter 47-11G be amended with a NEW SECTION:**

14 All shareholders of a corporation formed pursuant to this chapter must be persons
15 duly licensed by this state and actively engaged in the practice of physical therapy,
16 occupational therapy, or speech-language pathology and must, at all times, own their
17 shares in their own right.

18 A revocable trust may be a shareholder in a corporation organized under this
19 chapter, for so long as the grantor of the revocable trust is living and is eligible to be a
20 shareholder. After the death of the grantor, the shares owned by a revocable trust are
21 subject to any divestiture and redemption provisions of this chapter, as if the shares were
22 directly owned by the grantor of the trust.

23 Any shareholder who ceases to be an eligible shareholder must dispose of all shares
24 either to the corporation or to a person who is qualified to be a shareholder.

25 **Section 6. That chapter 47-11G be amended with a NEW SECTION:**

26 The president of a corporation formed pursuant to this chapter must be a
27 shareholder and director. To the extent possible, all other directors and officers must be
28 persons having the qualifications set forth in section 2 of this Act. Lay directors and officers
29 may not exercise any authority over professional matters.

30 **Section 7. That chapter 47-11G be amended with a NEW SECTION:**

1 An obligation of a corporation formed pursuant to this chapter, whether arising in
2 contract, tort, or otherwise, is the obligation of the corporation and the individual whose
3 act or omission gives rise to the obligation. No shareholder, director, officer, member, or
4 manager is personally liable, directly or indirectly, by way of contribution or otherwise,
5 for the obligation based solely on the person's capacity as a shareholder, director, officer,
6 member, or manager.

7 The limitation of liability does not extend to amounts owed to this state or its
8 political subdivisions for any taxes, or any penalty or interest on such taxes.

9 **Section 8. That chapter 47-11G be amended with a NEW SECTION:**

10 A copy of the articles of incorporation, certified by the secretary of state, must be
11 filed with the licensing board of each shareholder, together with a certified copy of any
12 amendments. The corporation shall also file the names and addresses of each shareholder
13 and the names and addresses of all persons who are not shareholders but are employed
14 by the corporation and licensed to practice physical therapy, occupational therapy, or
15 speech-language pathology in this state.

16 The respective licensing board must be notified within ten days if any information
17 required by this section changes.

18 **Section 9. That chapter 47-11G be amended with a NEW SECTION:**

19 Except as provided in this chapter, corporations may not engage in the practice of
20 physical therapy, occupational therapy, or speech-language pathology.

21 **Section 10. That chapter 47-11G be amended with a NEW SECTION:**

22 A corporation formed pursuant to this chapter may adopt a pension profit-sharing,
23 a health and accident, an insurance, or a welfare plan for all or some of its employees,
24 including lay employees, if the plan does not require or result in the sharing of specific or
25 identifiable fees with lay employees, and if any payments made to lay employees or into
26 any such plan on behalf of lay employees are based on their compensation, their length
27 of service, or both, rather than the amount of fees or income received.

28 **Section 11. That chapter 47-11G be amended with a NEW SECTION:**

1 The corporation may not do anything which, if done by physical therapist,
2 occupational therapist, or speech-language pathologist employed by it, would violate the
3 standards of conduct established for those professions.

4 Nothing in this chapter diminishes or changes the obligation of each physical
5 therapist, occupational therapist, or speech-language pathologist employed by the
6 corporation to conduct his or her practice in accordance with the professional standards
7 established by the respective licensing boards.